

Eighth Session of the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights

ORAL STATEMENT – Article 14

Joint Statement on Article 14 by CIDSE, ALBOAN, Broederlijk Delen, CAFOD, CCFD-Terre Solidaire, Commission Justice & Paix Belgium, DKA Austria, Entraide et Fraternité, Fastenopfer, Focsiv, KOO, Misereor and Trócaire.

27 October 2022

Mr. Chair,

I deliver this statement on behalf of CIDSE, ALBOAN, Broederlijk Delen, CAFOD, CCFD-Terre Solidaire, Commission Justice & Paix Belgium, DKA Austria, Entraide & Fraternité, Fastenopfer, Focsiv, KOO, Misereor and Trocaire.

We welcome that Art 14 recognises the primacy of human rights over trade and investments. Yet, in its current wording, Art 14 remains too vague, insofar as it does not specify how States should **practically** ensure that existing agreements do not violate human rights. We reiterate our suggestion from last year to introduce a human rights-based approach in the whole article and to outline that human rights experts should have a central role in Investor-State Dispute Settlement Tribunals.

Civil society and people affected by corporate abuse have been denouncing for years the negative impact of some mechanisms of bilateral and multilateral agreements, such as Investor-State Dispute Settlement Tribunals, known as ISDS. ISDS are unfairly biased towards corporate actors and are used as a means by which corporations exercise undue influence on governments' policies. They have for too long provided avenues for powerful companies to undermine crucial measures to protect people and the planet.

We therefore reiterate our three suggestions from last year on article 14.5:

First, language should be added at the end of the article to ensure that all **existing** bilateral or multilateral agreements, including trade and investment agreements, shall be **interpreted and implemented** in a manner that does not undermine or restrict States capacities to fulfill their obligations under this LBI.

Second, we advise States to add an additional letter to article 14.5 that would allow States to **revise and amend** trade and investment agreements that can negatively impact human rights.

Third, prior to concluding any **new** trade or investment agreements by State Parties, States Parties should be required to carry out comprehensive environmental and human rights impact assessments.

We believe Art 4.d should be strengthened by specifying that right-holders' right to access non-judicial grievance mechanisms should not infringe upon their right to seek remedy through the judicial System.

Therefore, we support the amendment to article 4.d proposed by Palestine last year.

In order to ensure victims have effective access to justice, we support amendments to 4f by Panama last year and Ecuador this morning, and we believe they could be merged.

In 5.2, we support the addition from Cameroon last year to ensure protection of victims from reprisals.

Thank you, Mr. Chair.